THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.1821 OF 2006

Dated:01.02.2006

BETWEEN

Gajjela Pitchaiah, s/o Nageswara Rao and others.

....PETITIONERS

AND

The Vice Chairman-cum-Housing Commissioner, APHB, Gruhakalpa, MJ Road, Hyderabad and another.

....RESPONDENTS

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ORDER:

The five petitioners were allotted MIG type of houses in A.P. Housing Board (APHB) Colony, Bhimavaram. They paid 30% as down payment and are required to pay the balance 70% tentative cost in quarterly instalments, spread over for a period of 12 years. It appears that adjacent to the quarters allotted to the petitioners, there is an excess vacant land belonging to APHB, admeasuring from 7.5 square yards to 36.29 square yards. The petitioners approached the APHB requesting for allotment of these stray pieces of land to them on outright basis and also requesting to allot the land at the rate at which the houses were allotted to them in 1997. They allege that the second respondent is insisting upon the payment of current market rate of Rs.1,850/- per square yard. Therefore, the petitioners filed the present writ petition seeking a writ of Mandamus directing the respondents to re-fix the cost of the excess land taking into consideration the rate at which the land was allotted to the petitioners in 1997.

Heard the learned counsel for the petitioners and the learned Standing Counsel for APHB.

The learned counsel for the petitioners is not able to show any right that vests in the petitioners to seek allotment of stray pieces of land at the old market value. He only submits that it would be proper if APHB is allowed to collect current market value, especially the extent of land adjacent to the petitioners' property is small. **Opposing** the writ petition, the learned Standing Counsel for APHB placed reliance on the orders of the Government in G.O.Ms.No.38, dated 30.05.1997, and submits that whenever the extent of stray pieces of land adjacent to a house is less than 100 square yards, the same has to be sold without public auction at the current market value. He also submits that APHB cannot sell the land at the old market value.

A perusal of G.O.Ms.No.38, dated 30.05.1997, would show that ordinarily the APHB is entitled to sell the land only by public auction. However, taking into consideration the proposals submitted by the APHB, the Government issued the above orders permitting the APHB to sell stray pieces of land measuring 100 square yards and above by public action and further permitted the APHB to sell stray pieces of land

measuring less than 100 square yards without conducting public auction. It was however made clear that if the area is of commercial value, invariably public auction has to be conducted.

The Government Order referred to hereinabove confers a limited right on the owner adjacent to a stray piece of APHB land to purchase the area less than 100 square yards at current market value, which only means that the market value that is prevailing in the area as on the date of allotment on outright basis. The Government Order supports the contention of the learned Standing Counsel for APHB that the APHB has no such power to sell stray pieces of land to the adjacent owner at a lesser price than the current market value.

The writ petition, for the above reasons, is devoid of any merit and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

01.02.2006

VGB